

Matthew Mertens, OSB No. 146288
MMertens@perkinscoie.com
Megan K. Houlihan, OSB No. 161273
MHoulihan@perkinscoie.com
PERKINS COIE LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Telephone: +1.503.727.2000
Facsimile: +1.503.727.2222

David A. Perez, *pro hac vice*
DPerez@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Telephone: +1.206.359.8000
Facsimile: +1.206.359.9000

*Attorneys for Defendant NaphCare, Inc.,
Julie Radostitz, MD, Kathy Dement, Andrea
Gillette, Morgan Hinthorne, Rachel Stickney,
and Melanie Menear*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**TAMMY L. THOMSEN, Personal
Representative of the Estate of
DALE L. THOMSEN, Deceased;**

Plaintiff,

v.

NAPHCARE, INC., an Alabama
Corporation; **WASHINGTON
COUNTY**, a government body in the
State of Oregon; **ERIN LARSEN**, an
individual; **LISA WAGNER**, an
Individual; **JULIE RADOSTITZ, MD**,
an Individual; **MELANIE MENEAR**, an
Individual; **KATHY DEMENT**, an
Individual; **KATIE BLACK**, an
Individual; **ANDREA JILLETTE, also**

Case No. 3:19-cv-00969-AR

**DECLARATION OF
MEGAN K. HOULIHAN IN
SUPPORT OF NAPHCARE'S
MOTION TO EXCLUDE EXPERTS**

known as ANDREA GILLETTE, an Individual; **MORGAN HINTHORNE**, an Individual; **RACHEL STICKNEY**, an Individual;

Defendants.

I, Megan K. Houlihan, declare as follows:

1. I am at least eighteen (18) years of age and am competent to testify regarding the matters set forth herein.

2. I am one of the attorneys of record for Defendants NaphCare, Inc., Julie Radostitz, MD, Kathy Dement, Andrea Gillette, Morgan Hinthorne, Rachel Stickney, and Melanie Menear in the above entitled matter. I make this declaration based upon my own personal knowledge. If called as a witness, I could and would competently testify as to the truth of the matters set forth herein.

3. This declaration is submitted in support of NaphCare's Motion to Exclude Plaintiff's Experts.

4. The highlighting in the exhibits has been added at my direction to assist the Court in identifying relevant portions of the exhibits attached to this declaration.

5. Attached hereto as **Exhibit 1** are true and correct copies of portions of Dale Thomsen's arrest and incarceration records produced by Defendant Washington County during the course of discovery in this matter.

6. Attached hereto as **Exhibit 2** are true and copies of portions of Mr. Thomsen's arrest and incarceration records produced by Plaintiff during the course of discovery in this matter.

7. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the deposition of Plaintiff Tammy Thomsen taken in this matter on February 13, 2020.

2 DECLARATION OF MEGAN K. HOULIHAN

159694402.1

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Phone: +1.503.727.2000
Fax: +1.503.727.2222

8. Attached hereto as **Exhibit 4** is a true and correct copy of an article entitled *Alcohol withdrawal: Epidemiology, clinical manifestations, course assessment, and diagnosis*. This article was used as Exhibit 8 to the deposition of Amarprit Bains, M.D., taken in this matter on October 12, 2022, and was introduced as an exhibit at page 56 of the transcript attached hereto as Exhibit 33.

9. Attached hereto as **Exhibit 5** is a true and correct copy of portions of the medical records of Mr. Thomsen produced by Defendant Washington County during the course of discovery in this matter. These documents were used as Exhibit 7 to the deposition of Stuart M. Graham, M.D., taken in this matter on November 15, 2022, and were introduced as exhibit at page 36 of the transcript attached hereto as Exhibit 13.

10. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the transcript of the deposition of Michel Sucher, M.D., taken in this matter on October 6, 2022.

11. Attached hereto as **Exhibit 7** are true and correct portions of the medical records of Mr. Thomsen produced by Defendant NaphCare, Inc. during the course of discovery in this matter.

12. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts from the transcript of the deposition of Deputy Jeff Smith taken in this matter on January 6, 2020.

13. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the transcript of the deposition of Samuel Freedman, M.D., taken in this matter on August 25, 2022.

14. Attached hereto as **Exhibit 10** is a true and correct copy of Exhibit 2 to the deposition of Brad Verboort taken in this matter on November 27, 2019, which consists of documents produced by Defendant Washington County during the course of discovery in this matter.

3 DECLARATION OF MEGAN K. HOULIHAN

159694402.1

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Phone: +1.503.727.2000
Fax: +1.503.727.2222

15. Attached hereto as **Exhibit 11** is a true and correct copy of the supplemental expert report of Lori E. Roscoe produced in this matter by Plaintiff on December 19, 2022, after the close of expert discovery.

16. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from Volume II of the transcript of Vincent Reyes, M.D., taken in this matter on November 7, 2022.

17. Attached hereto as **Exhibit 13** is a true and correct copy of excerpts from the transcript of the deposition of Stuart M. Graham, M.D., taken in this matter on November 15, 2022.

18. Attached hereto as **Exhibit 14** are true and correct copies of Dale Thomsen's medical records obtained from Tuality Healthcare on August 28, 2019. These records have been authenticated by the certificate of the custodian of records for Tuality Healthcare at page 1 of the exhibit.

19. Attached hereto as **Exhibit 15** are true and correct copies of Thomsen's medical records obtained from Oregon Health & Science University on October 30, 2019. These records have been authenticated by the certificate of the custodian of records for Oregon Health & Science University on page 1 of the exhibit.

20. Attached hereto as **Exhibit 16** is a true and correct copy of the June 29, 2017 memorandum prepared by Washington County Sheriff Lt. Karlyn Degman regarding her interview with Mrs. Thomsen. This document was used as Exhibit 54 to the deposition of Tammy Thomsen taken in this matter on February 13, 2020, and was introduced as exhibit at page 137 of the transcript attached hereto as Exhibit 3.

21. Attached hereto as **Exhibit 17** is a true and correct copy of excerpts from the transcript of the deposition of Michael Freeman taken in this matter on November 4, 2022.

4 DECLARATION OF MEGAN K. HOULIHAN

159694402.1

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Phone: +1.503.727.2000
Fax: +1.503.727.2222

22. Attached hereto as **Exhibit 18** is a true and correct copy of the expert report of Michael Freeman. This document was used as Exhibit 1 to the deposition of Michael Freeman taken in this matter on November 4, 2022, and was introduced as an exhibit at page 20 of the transcript attached hereto as Exhibit 17.

23. Attached hereto as **Exhibit 19** is a true and correct copy of the expert report of Stuart M. Graham, M.D. This document was used as Exhibit 3 to the deposition of Stuart M. Graham, M.D., taken in this matter on November 15, 2022, and was introduced as an exhibit at page 24 of the transcript attached hereto as Exhibit 13.

24. Attached hereto as **Exhibit 20** is a true and correct copy of the expert rebuttal report of Stuart M. Graham, M.D. This document was used as Exhibit 4 to the deposition of Stuart M. Graham, M.D. taken in this matter on November 15, 2022 and was introduced as an exhibit at page 25 of the transcript attached hereto as Exhibit 13.

25. Attached hereto as **Exhibit 21** is a true and correct copy of a detailed chart clearly delineating the plagiarized portions of Dr. Stuart Graham's report in this matter. This chart was prepared by my staff at my direction.

26. Attached hereto as **Exhibit 22** is a true and correct copy of an article entitled *Management of Moderate and Severe Alcohol Withdrawal Syndromes*. This article was used as Exhibit 8 to the deposition of Amarprit Bains, M.D., taken in this matter on October 12, 2022, and was introduced as an exhibit at page 56 of the transcript attached hereto as Exhibit 33.

27. Attached hereto as **Exhibit 23** is a true and correct copy of the References exhibit to the expert report Stuart M. Graham, M.D. This document was used as Exhibit 5 to the deposition of Stuart M. Graham, M.D., taken in this matter on November 15, 2022, and was introduced as an exhibit at page 25 of the transcript attached hereto as Exhibit 13.

5 DECLARATION OF MEGAN K. HOULIHAN

28. Attached hereto as **Exhibit 24** is a true and correct copy of a document entitled Stipulated Order issued by the State of Oregon Medical Board. This document was used as Exhibit 1 to Volume I of the deposition of Vincent Reyes, M.D., taken in this matter on August 22, 2022, and was introduced as an exhibit at page 10 of the transcript attached hereto as Exhibit 25.

29. Attached hereto as **Exhibit 25** is a true and correct copy of excerpts from Volume I of the transcript of the deposition of Vincent Reyes, M.D., taken in this matter on August 22, 2022.

30. Attached hereto as **Exhibit 26** is a true and correct copy of the expert report of Vincent Reyes, M.D. This document was used as Exhibit 5 to Volume II of the deposition of Vincent Reyes, M.D., taken in this matter on November 7, 2022, and was introduced as an exhibit at pages 6–7 of the transcript attached hereto as Exhibit 12.

31. Attached hereto as **Exhibit 27** is a true and correct copy of the expert report of Michel A. Sucher, M.D. This document was used as Exhibit 1 to the deposition Michel A. Sucher, M.D., taken in this matter on October 6, 2022, and was introduced as an exhibit at page 96 of the transcript attached hereto as Exhibit 6.

32. Attached hereto as **Exhibit 28** is a true and correct copy of the report of Samuel Freedman, M.D., published by Plaintiff as part of Plaintiff's Expert Disclosure on April 5, 2021.

33. Attached hereto as **Exhibit 29** is a true and correct copy of the rebuttal expert report of Samuel Freedman, M.D., published by Plaintiff as part of Plaintiff's Disclosure of Rebuttal Expert Testimony on May 31, 2022.

34. Attached hereto as **Exhibit 30** is a true and correct copy of the expert report of Gregory T. Whitman, M.D. This document was used as Exhibit 3 to the deposition of Gregory T. Whitman, M.D., taken in this matter on October 26, 2022,

and was introduced as an exhibit at page 101 of the transcript attached hereto as Exhibit 31.

35. Attached hereto as **Exhibit 31** is a true and correct copy of excerpts from the transcript of the deposition of Gregory T. Whitman, M.D., taken in this matter on October 26, 2022.

36. Attached hereto as **Exhibit 32** is a true and correct copy of the expert report of Amarprit Bains, M.D. This document was utilized as Exhibit 4 to the deposition of Amarprit Bains, M.D., taken in this matter on October 12, 2022, and was introduced as an exhibit at page 26 of the transcript attached hereto as Exhibit 33.

37. Attached hereto as **Exhibit 33** is a true and correct copy of excerpts from the transcript of the deposition of Amarprit Bains, M.D., taken in this matter on October 12, 2022.

38. Attached hereto as **Exhibit 34** is a true and correct copy of the report of Reed Paulson, M.D., produced by Plaintiff as part of Plaintiff's Expert Disclosure on April 5, 2021.

39. Attached hereto as **Exhibit 35** is a true and correct copy of excerpts from the transcript of the deposition of Reed Paulson, M.D., taken in this matter on August 26, 2022.

40. Attached hereto as **Exhibit 36** is a true and correct copy of the curriculum vitae of Lori E. Roscoe. This document was used as Exhibit 2 to the deposition of Lori E. Roscoe taken in this matter on November 16, 2022, and was introduced as an exhibit at page 8 of the transcript attached hereto as Exhibit 37.

41. Attached hereto as **Exhibit 37** is a true and correct copy of excerpts from the transcript of the deposition of Lori E. Roscoe taken in this matter on November 16, 2022.

42. Attached hereto as **Exhibit 38** is a true and correct copy of the expert report of Lori E. Roscoe. This document was used as Exhibit 1 to the deposition of Lori E. Roscoe taken in this matter on November 16, 2022, and was introduced as an exhibit at page 8 of the transcript attached hereto as Exhibit 37.

43. Attached hereto as **Exhibit 39** is a true and correct copy of the expert report of Bradley Hansen. This document was used as Exhibit 1 to the deposition of Bradley Hansen taken in this matter on December 7, 2022, and was introduced as an exhibit at page 4 of the transcript attached hereto as Exhibit 40.

44. Attached hereto as **Exhibit 40** is a true and correct copy of excerpts from the transcript of the deposition of Bradley Hansen taken in this matter on December 7, 2022.

45. Attached hereto as **Exhibit 41** is true and correct copy of the rebuttal expert report of Amarprit Bains, M.D. This document was used as Exhibit 5 to the deposition of Amarprit Bains, M.D., taken in this matter on October 12, 2022, and was introduced as an exhibit at page 27 of the transcript attached hereto as Exhibit 33.

46. Attached hereto as **Exhibit 42** is a true and correct copy of the rebuttal expert report of Vincent Reyes, M.D. This document was used as Exhibit 3 to Volume 1 of the deposition of Vincent Reyes, M.D., taken in this matter on August 22, 2022, and was introduced as an exhibit at pages 32–33 of the transcript attached hereto as Exhibit 25.

47. Attached hereto as **Exhibit 43** is a true and correct copy of an article entitled *Sudden Coronary Death in the United States*. This document was used as Exhibit 4 to the deposition of Michael Freeman taken in this matter on November 4, 2022, and was introduced as an exhibit at page 68 of the transcript attached hereto as Exhibit 17.

48. Attached hereto as **Exhibit 44** is a true and correct copy of an article entitled *Triggering Sudden Death from Cardiac Causes by Vigorous Exertion*. This document was used as Exhibit 9 to the deposition of Michael Freeman taken in this matter on November 4, 2022, and was introduced as an exhibit at page 90 of the transcript attached hereto as Exhibit 17.

49. Attached hereto as **Exhibit 45** is a true and correct copy of an article entitled *Reference Guide on Epidemiology*, in the *Reference Manual on Scientific Evidence*. This document was used as Exhibit 3 to the deposition of Michael Freeman taken in this matter on November 4, 2022, and was introduced as an exhibit at page 39 of the transcript attached hereto as Exhibit 17.

50. Attached hereto as **Exhibit 46** is a true and correct copy of excerpts from the transcript of the deposition of Deputy David Adams taken in this matter on January 6, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 21, 2022

/s/ Megan K. Houlihan

Megan K. Houlihan